504

# SUPREME COURT OF THE UNITED STATES.

No. ~~77.~~ 26

## DOMINGO URTETIQUE, PLAINTIFF IN ERROR,

VERSUS

## JOHN N. D'ARCY, HENRY DIDIER, AND DOMINGO D'ARBEL, DEFENDANTS IN ERROR.

IN ERROR TO THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF MARYLAND.

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THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

At a circuit court of the United States for the fourth circuit in and for the Maryland district, begun and held at the city of Baltimore, on the eighth day of April, in the year of our Lord one thousand eight hundred and thirty-three.

Present, the honorable Gabriel Duvall, one of the associate justices of the Supreme Court of the United States, Elias Glenn, judge of Maryland district, Nathaniel Williams, esquire, attorney, Thomas Finley, esquire, marshal, Philip Moore, clerk.

Among other, were the following proceedings, to wit:

JOHN N. D'ARCY, HENRY DIDIER, DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

Be it remembered that, heretofore, to wit, on the first day of May, in the year of our Lord one thousand eight hundred and thirty, the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by John Glenn, their attorney, prosecuted and sued forth out of the circuit court here, the writ of the United States of America, of capias ad respondendum, directed to the marshal of the Maryland district, in the words and of the tenor following, to wit:

UNITED STATES OF AMERICA, *Maryland District, to wit:*

*To the Marshal for Maryland District, greeting:*

Writ. [SEAL.] We command you that you take Domingo de Urtetique, an alien and subject of the King of Spain, if he shall be found in your district; and that him so taken you safe keep, so that you have his body before the judges of the circuit court of the United States for the

fourth circuit in and for the Maryland district, at the United States' court room in the city of Baltimore, on the first day of November next, to answer unto John N D'Arcy, Henry Didier, and Domingo D'Arbel, citizens of the State of Maryland, in a plea of trespass on the case, &c. Hereof fail not at your peril, and have you then and there this writ. Witness, the honorable John Marshall, Chief Justice of our Supreme Court, the second Monday of January, in the year of our Lord one thousand eight hundred and thirty.

J. G. Issued 1st May, 1830.

PHILIP MOORE, *Clk. Circt. Ct.*

And the aforesaid John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, on the day of prosecuting and suing forth of the aforesaid writ, declared against the said Domingo Urtetique in the plea aforesaid in form following, to wit:

In the circuit court of the United States for the fourth circuit in and for the district of Maryland. Declaration.

*Maryland District, to wit:*

Domingo De Urtetique, an alien, and subject of the King of Spain, was attached to answer unto John N. D'Arcy, Henry Didier, and Domingo D'Arbel, citizens of Maryland, in a plea of trespass on the case, &c. And whereupon the said plaintiffs, being partners in trade, by J. Glenn, their attorney, complain. For that whereas the said defendant on the first day of March, in the year eighteen hundred and thirty, to wit, at the district aforesaid, was indebted to the said plaintiffs in a large sum of money, to wit, in the sum of ten thousand dollars for the work and labor, care, diligence, and attendance of the said plaintiffs, by them before that time done, performed, and bestowed, in and about the business of the said defendant, for him, and at his special instance and request. And also, in a like sum for divers goods, wares, and merchandise, by the said plaintiffs before that time sold and delivered to the said defendant, and at his like special instance and request. And also, in a like sum for money by the said plaintiffs before that time lent and advanced to, and paid, laid out, and expended for the said defendant, and at his like special instance and request. And also, in a like sum for other money by the said defendant before that time had and received to and for the use of the said plaintiffs; and, being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the district aforesaid, undertook, and then and there faithfully promised the said plaintiffs to pay them the said several sums of money in this count mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant, afterwards, to wit, on the day and year aforesaid, at the district aforesaid, accounted with the said plaintiff of and concerning divers other sums of money before that time, due and owing from the said defendant to the said plaintiffs, and then being in arrear and unpaid; and, upon such accounting, the said defendant was then and there found to be in arrear and indebted to the said plaintiffs in another large sum of money, to wit, in the further sum of ten thousand dollars, and being so found in arrear and indebted, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at

the district aforesaid, undertook and faithfully promised the said plaintiffs to pay them the last mentioned sum of money when the said defendant should be thereto afterwards requested. Nevertheless, the said defendant, not regarding his said promises and undertakings, hath not yet paid the aforesaid several sums of money, or either of them, or any part of either of them, to the said plaintiffs, (although so to do, the said defendant was requested by the said plaintiffs, afterwards, to wit, on the day and year last aforesaid, and often afterwards at the district aforesaid,) but to pay the same the said defendant hath hitherto altogether refused, and doth still refuse so to do, to the damage of the said plaintiffs fifteen thousand dollars, and thereupon they bring suit, &c.

J. GLENN, *Plaintiffs' Attorney.*

A copy of which said declaration was made and sent with the said writ to the marshal of the Maryland district aforesaid, thereon endorsed, "to be served on the defendant with the writ." At which mentioned first day of November, in the year of our Lord one thousand eight hundred and thirty, being the day of the return of the aforegoing writ, comes into the circuit court here the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, and the marshal of the Maryland district aforesaid, to wit, Thomas Finley, gentleman, to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit:

Marshal's return of the writ. Cepi.

THOMAS FINLEY, *Marshal.*

And the said Thomas Finley, marshal of the Maryland district aforesaid, although solemnly called upon by order of the court here, on motion of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, to bring into court here the body of the said Domingo Urtetique, according to the command of the said writ, and the tenor of his return aforesaid, brings him not in, but makes default; whereupon, on motion of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, it is ruled by the court here that the said Thomas Finley, marshal of the Maryland district aforesaid, be amerced in the sum of five dollars current money, unless the said Thomas Finley, marshal of the Maryland district aforesaid, have the body of the said Domingo Urtetique before the court here at the next term of the circuit court to be held at the city of Baltimore, on the eighth day of April next, and by the second day thereof, to answer unto the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, in the plea aforesaid: the same day is given to the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, then and there, &c. And the said Domingo Urtitique appears in the circuit court here, by Jonathan Meredith and John P. Kennedy, his attorneys. Whereupon, it is ordered by the court here that the rule and amerciament aforesaid be discharged and stricken out; and thereupon, on motion of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, it is ruled by the court here that the said Domingo Urtetique give special bail in the plea aforesaid: Whereupon, a certain Thomas Tenant and Henry Thompson of the said district come here into court in their proper persons, and with the consent of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, become pledges and bail for the said Domingo Urtetique; and each of them becomes pledge and bail for the said Domingo

Rule bail.

Special bail entered.

Urtetique, that, if it shall happen that the said Domingo Urtiteque shall be convicted at the suit of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, in the plea aforesaid, then the said Thomas Tenant and Henry Thompson consent, and each of them consents, that all such damages, costs, and charges, as shall be adjudged unto the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, in this behalf, shall be made of their, and each of their bodies, lands, and chattels, and levied to the use of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, if it shall happen that the said Domingo Urtetique shall not pay the said damages, costs, and charges, or render himself to the custody of the marshal of the Maryland district aforesaid on that occasion.

And thereupon, on motion of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, it is ruled by the court here that the said Domingo Urtetique answer to the declaration aforesaid of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, in the plea aforesaid, or judgment by the court here will be entered against him in default thereof. Rule plea. And the said Domingo Urtetique, by his attorneys aforesaid, defends the force and injury, when, &c., and saith that he did not assume upon himself, in manner and form as the aforesaid John N. D'Arcy, Henry Didier, and Domingo D'Arbel, above against him have complained, and of this he puts himself upon the country, and the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, in the like manner, &c. Therefore, let a jury thereon appear before the court here on the eighth day of April next, by whom, &c., and who neither, &c., to recognize, &c., because as well, &c., the same day is given to the said parties then and there, &c. Plea. Issue.

Thereupon, further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the eighth day of April next. At which said eighth day of April, in the year of our Lord one thousand eight hundred and thirty-one, come again into the circuit court here, as well the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, as the said Domingo Urtetique, by his attorneys aforesaid.

Thereupon, further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the first day of November next. April, 1831, continuance.

At which said first day of November, in the year of our Lord one thousand eight hundred and thirty-one, come again into the circuit court here as well the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, as the said Domingo Urtiteque, by his attorneys aforesaid.

Thereupon, further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the eighth day of April next. November, 1831, continuance.

At which said eighth day of April, in the year of our Lord one thousand eight hundred and thirty-two, come again into the circuit court here as well the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, as the said Domingo Urtetique by his attorneys aforesaid.

April, 1832, continuance. Thereupon, further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the first day of November next. At which said first day of November, in the year of our Lord one thousand eight hundred and thirty-two, come again into the circuit court here as well the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by their attorney aforesaid, as the said Domingo Urtetique, by his attorneys aforesaid.

November, 1832, continuance. Thereupon, further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the eighth day of April next. At which said eighth day of April, in the year of our Lord one thousand eight hundred and thirty-three, come again into the circuit court here, as well the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, by John Glenn and Reverdy Johnson, their attorneys, as the said Domingo Urtetique, by his attorneys aforesaid. And the said Domingo Urtetique, by his said attorneys, files in the circuit court here the following plea, in abatement to wit:

Plea in abatement. And the said Domingo De Urtetique comes here into court, and defends the wrong and injury, when, &c., and says that this court ought not, and will not take cognizance of the aforesaid, because he says that Domingo D'Arbel, one of the plaintiffs in this cause, was not at the time of the impetration of the writ in this cause, a citizen of the United States, or any one of them; wherefore he says that this court ought not, and will not, take cognizance of the plea aforesaid.

J. MEREDITH,
N. WILLIAMS,
J. P. KENNEDY, } *Counsel for Defendant.*

Replication and issue. And the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, say, that by any thing by the said Domingo Urtetique, in his plea above in pleading alleged, this court here from cognizance of the plea aforesaid ought not to be precluded, nor ought they, the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, be barred from having their said action against him, the said Domingo Urtetique, because they say that he, the said Domingo D'Arbel, at the time of the issuing of the said writ in this cause, was a citizen of the United States, and o one of the States of the said United States. And this they pray may be inquired of by the country, &c. And the said Domingo Urtetique in like manner, &c., all errors in pleading waived.

Agreement.
J. GLENN, *for Pltffs.*
J. MEREDITH, *for Defendt.*

Whereupon, for trying the issues aforesaid, it is ordered by the court here, that twenty persons from the pannel of petit jurors returned to the court here by the marshal of the Maryland district, be drawn by ballot. And thereupon, the twenty persons being so drawn by ballot, and written upon two lists, one of which said lists is delivered to the counsel for the respective parties, and the counsel for each of the said parties having stricken out four persons from the said lists, the remaining twelve persons being called,

come, to wit: David Clendennin, Nicholas Snyder, Hugh Ely, John Barney, Robert Purviance, James Turner, John T. Randall, William Jamison, William Jenkins, Robert Caldwell, James A. Gover, Dixon Stansbury, who, being empannelled and sworn to say the truth in the premises, upon their oath do say, that the said Domingo Urtetique did assume upon himself in manner and form as the aforesaid John N. D'Arcy, Henry Didier, and Domingo D'Arbel, within against him have complained; and they assess the damages of the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, sustained by occasion of the non-performance of the promises and assumptions aforesaid, to the sum of nine thousand four hundred and eighty-six dollars and twenty-seven cents current money. Therefore, it is considered by the court here, that the aforesaid John N. D'Arcy, Henry Didier, and Domingo D'Arbel, recover against the said Domingo Urtitique, as well the sum of nine thousand four hundred and eighty-six dollars and twenty-seven cents current money, their damages aforesaid in form aforesaid assessed, to be sustained by occasion of the non-performance of the promises and assumptions aforesaid, as the sum of fifty-two dollars and sixty-eight cents, by the court here unto them the said John N. D'Arcy, Henry Didier, and Domingo D'Arbel, on their assent adjudged for their costs and charges by them about their suit in this behalf laid out and expended. And the said Domingo Urtetique in mercy, &c.

Jury.

Verdict.

Judgment.

*Memorandum.*

Judgment rendered in this cause on this twentieth day of April, in the year of our Lord one thousand eight hundred and thirty-three, for the damages laid in the declaration, and costs of suit, the said damages to be released on payment of the sum of nine thousand four hundred and eighty-six dollars and twenty-seven cents, with interest thereon from the twentieth day of April, in the year of our Lord one thousand eight hundred and thirty-three, until paid, and costs of suit.

*Memorandum.*

Before the jurors aforesaid withdrew from the bar of the court here, the said parties, by their attorneys aforesaid, tendered to the court here the following bills of exception, which were by the court here signed and sealed, and which are in form following, to wit:

THE UNITED STATES OF AMERICA, *District of Maryland, to wit:*

JOHN N. D'ARCY,
HENRY DIDIER, and
DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

} *Defendant's first Exception.*

Defendt's 1st. exception.

The plaintiffs having offered, in evidence, the following commission and returns.

THE UNITED STATES OF AMERICA, *District of Maryland, sct.—To Levi Pierce, esquire, greeting:*

[SEAL.] Be it known, that you are appointed commissioner to examing evidences in a cause now depending in the circuit court of the United States for the fourth circuit in and for the Mary-

Commission.

land district, between John N. D'Arcy, Henry Didier, and Domingo D'Arbel, plaintiffs, and Domingo Urtetique, defendant. Therefore, you are requested, having first taken the oath hereunto annexed, and also administered the annexed oath to the person whom you shall appoint as clerk to attend the execution of this commission, that at such time and place as to you shall seem convenient, you cause to come before you all such evidences as shall be named or produced to you by either the plaintiffs or defendant, and that you examine them upon their corporal oaths, to be by you administered upon the Holy Evangely of Almighty God, touching their knowledge or remembrance of any thing that may relate to the cause aforesaid; and having reduced the depositions of the witnesses so taken by you into writing, you send the same with this commission closed, under your hand and seal, to the said circuit court, with all convenient speed. Witness, the honorable John Marshall, Chief Justice of our Supreme Court, the first Monday of August, in the year of our Lord one thousand eight hundred and thirty-two.

J. G., J. P. K. Issued 19 November, 1832.

PHILIP MOORE, *Clk. Circt. Ct.*

Return. The execution of this commission appears in a certain schedule hereunto annexed.

LEVI PIERCE, *Com'r.* [SEAL.]

*New Orleans, 6th December*, 1832.

*(Commissioner's Oath.)*

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now, or which may hereafter, before the said commission is closed, be produced to, and left with you by either party: so help you God.

LEVI PIERCE.

Sworn to, and subscribed before me at New Orleans, this 6th December, 1832.

J. BERMUDEZ.

UNITED STATES OF AMERICA, *State of Louisiana.*

By A. B. Roman, governor of the State of Louisiana. These are to certify that J. Bermudez, whose name is subscribed to the instrument of writing herein annexed, was at the time of signing the same, is now associate judge of the city court of New Orleans; and that full faith and credit is due thereto.

Given at New Orleans, under my hand and seal of the State, [SEAL.] this seventh day of December, one thousand eight hundred and thirty-two, and of the independence of the United States the fifty-seventh.

A. B. ROMAN.

By the Governor.

G. EUSTIS,
*Secretary of State.*

*(Clerk's Oath.)*

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down and transcribe, the depositions of all and every the witness and witnesses produced before, and examined by the commissioner named in the commission hereunto annexed, as far forth as you are directed and employed by the said commissioner to take, write down, and transcribe, the said depositions, or any of them: so help you God. Clerk's oath.

J. P. BENJAMIN.

The preceding oath was by me administered to J. P. Benjamin, by me appointed clerk, before proceeding to execute this commission.

LEVI PIERCE, *Com'r.*

*New Orleans, 6th December,* 1832.

| | |
|---|---|
| Commissioner's costs, - - - - - - | $10 |
| Clerk's costs, - - - - - - - | 15 25 |

L. PIERCE, *Comr.*

*Interrogatories to witnesses on part of the Plaintiffs.*

JOHN N. D'ARCY, HENRY DIDIER, DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

1. Do you know Domingo D'Arbel, one of the plaintiffs in this cause, and how long have you known him? Pltffs' interrogatories.
2. Was he, or was he not, an inhabitant of Louisiana before and on the 30th April, 1803, and did he continue to be an inhabitant of that province afterwards, and how long?

JOHN GLENN,
*Counsel for Plaintiffs.*

*Cross interrogatories to be put to witnesses examined on the part of the Plaintiffs, in the case D'Arcy, Didier, and Arbel, against Domingo Urtetique.*

JOHN N. D'ARCY, HENRY DIDIER, DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

1. Was the said Domingo D'Arbel a resident of the city of New Orleans in the year 1817? Cross interrogatories.
2. Was he engaged in commerce in the said city of New Orleans in that year, either as a resident or transient visitor?
3. Do you know, or have you ever heard of any other person in the said city of New Orleans, engaged in commerce in 1817, bearing the same name with the said Domingo D'Arbel?

J. MEREDITH,
J. P. KENNEDY, *For Defendt.*

JOHN N. D'ARCY, HENRY DIDIER, DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

Circuit court of the United States for the fourth circuit in the district of Maryland.

Depositions of witnesses produced, sworn, and examined, on the sixth day of December, in the year of our Lord, 1832, at the office of Levi Pierce, in the city of New Orleans, in the State of Louisiana, by virtue of the annexed commission.

Deposition of L. Seré.

Louis Seré, of the city of New Orleans, aged about sixty-one years, formerly merchant, and now comptroller of the city, being produced, sworn, and examined, on behalf of the plaintiffs, deposeth as follows:

1. To the first interrogatory on the part of the plaintiffs, he deposeth as follows: That he knows Domingo D'Arbel, one of the plaintiffs in this cause, and has known of him since a period prior to the year 1803.

2. To the second interrogatory on the part of the plaintiffs he deposeth as follows: That the said D'Arbel was an inhabitant of Louisiana before and on the 30th April, 1803, and continued to be an inhabitant of that province until the year 1818 or 1819.

Cross examination.

3. To the first cross-interrogatory on the part of the defendant, he deposeth as follows: That the said Domingo D'Arbel was a resident of the city of New Orleans in the year 1817.

4. To the second cross interrogatory on the part of the defendant, he deposeth as follows: That the said Arbel was engaged in commerce as a resident in the said city of New Orleans, in the year 1817 aforesaid.

5. To the third cross-interrogatory on the part of the defendant, he deposeth as follows: That he neither knows, nor has he ever heard of any other person in the said city of New Orleans engaged in commerce in 1817, bearing the same name with said Domingo D'Arbel.

LOUIS SERE.

LEVI PIERCE, *Comr.*

Deposition of J. W. Zacharie.

James Waters Zacharie, of the city of New Orleans, aged about thirty-five years, merchant, being produced, sworn, and examined on the part of the plaintiffs, deposeth as follows:

1st. To the first interrogatory on the part of the plaintiffs, he deposeth as follows: That he knows Domingo D'Arbel, one of the plaintiffs in this cause, and has known him since the year 1812.

2d. To the second interrogatory on the part of the plaintiff, he deposeth that he knoweth nothing in relation to the facts referred to in this interrogatory.

Cross examination.

3d. To the first cross-interrogatory on the part of the defendant, he deposeth as follows: That the said Domingo D'Arbel a resident of the city of New Orleans in the year 1817.

4th. To the second cross-interrogatory on the part of the defendant, he deposeth as follows: That the said D'Arbel was engaged in commerce, as a resident in said city of New Orleans, in the said year 1817.

5th. To the third cross-interrogatory on the part of the defendant, he deposeth as follows: That he neither knows, nor has he ever heard of any

other person in the said city of New Orleans, engaged in commerce in the year 1817, bearing the same name with said Domingo D'Arbel.

J. W. ZACHARIE.

LEVI PIERCE, *Comr.*

The plaintiffs, further to support the issue on their part, on the plea of abatement to the jurisdiction of this court, filed in this cause, offered in evidence the following paper purporting to be a passport from the Secretary of State of the United States, and was admitted to be an original paper from the Department of State, signed by John Quincy Adams, then Secretary of State of the United States, and having also offered evidence that the several endorsements on said paper were respectively in the hand-writing of the several persons signing the same, and that said persons were the respective officers of the Government of Mexico, as they style themselves in said endorsements, at the periods at which the same were made. It was also admitted that at the date of said passport, said Arbel was then in Mexico, and that the said passport was applied for, and obtained for him at his instance, and by his request, by one of the co-plaintiffs, who transmitted the same to said Arbel, into whose possession it came, and by whom it was used; the only proof of said use, being the said endorsements so made thereon.

UNITED STATES OF AMERICA—*To all to whom these presents shall come, greeting.—No.* 522.

D'Arbel's passport.

I, the undersigned, Secretary of State of the United States of America, hereby request all whom it may concern, to permit safely and freely to pass, Domingo D'Arbel, a citizen of the United States; and in case of need to give him all lawful aid and protection.

[SEAL.] Given under my hand, and the impression of the seal of the Department of State, at the city of Washington, the twenty-second day of March, 1824, in the 48th year of the independence of these United States.

JOHN QUINCY ADAMS.

*Description.*

Age—36 years.
Stature—5 feet 5 inches, English.
Forehead—high.
Eyes—hazel.
Nose—middle size.
Mouth—large.
Chin—sharp.
Hair—black.
Complexion—fair.
Face—round.

Signature of the bearer,
DOM. DE ARBEL.

Gratis.

*Endorsed.*

COURT OF TAMPICO TAMANLIPAS, *6th June*, 1827.
(Signed,)

LEGORIA.

CONSTITUTIONAL COURT OF TAMPICO DE TAMANLIPAS,

*March* 31, 1828.

Permit the person named in the within passport to proceed with a guide and servant, carrying the necessary arms for his defence.

(Signed,) FRANO. DELGADO.

CONSTITUTIONAL COURT OF TAMPICO DE TAMANLIPAS,

*2d June*, 1829.

Permit the within named to embark on board the American schooner General Warren for New York.

(Signed,) JOAQUIM QUINTANA.

OFFICE OF THE CAPTAIN OF THE PORT TAMPICO.

Permit the within to pass in the pilot boat (American) General Warren, for New York.

*Bar of Tampico, June* 5, 1829.

(Signed,) ROSA.

To the admissibility of which paper in evidence the defendant, by his counsel, objected, the same not being legal or competent evidence of the American citizenship of said D'Arbel. But the court were of opinion, and so decided, that the said paper was legal and competent evidence of said citizenship, and the same was admitted. To which opinion and admission the defendant, by his counsel, prayed leave to except, and that the court here would sign and seal this bill of exceptions, which is accordingly done, this 15th day of April, 1833.

GABRIEL DUVALL. [SEAL.]
ELIAS GLENN. [SEAL.]

JOHN N. D'ARCY,
HENRY DIDIER,
DOMINGO D'ARBEL, } *Defendant's 2d Exception.*
*vs.*
DOMINGO URTETIQUE.

Defendant's 2d exception.

The defendant, by his counsel, in order to support the issue on his part on his plea in abatement, to the jurisdiction of the court in this cause, offered to give in evidence for the purpose of showing the admission of the said D'Arbel, under oath, that he was a subject of the King of Spain, on the 8th day of May, 1817, the following paper, purporting to be a record.

UNITED STATES OF AMERICA, *Eastern District of Louisiana,ss.*

New Orleans record.

Be it remembered that, on the 24th day of May, in the year of our Lord 1817, into the district court of the United States, in and for the then Louisiana district, came Domingo D'Arbel, by Messrs Ellery and Smith, his attorneys, and filed the following transcript or record, to wit:

Be it remembered that, on the fifth day of May, in the year of our Lord one thousand eight hundred and seventeen, and in the forty-first year of the independence of the United States, into the district court, in and for the first judicial district of the State of Louisiana, came John K. West, curator of the estate of James Neil, by his attorneys, Duncan and Clarke, esquires, and filed the following petition, to wit:

*To the honorable Joshua Lewis, Judge of the First Judicial District, State of Louisiana.*

Petition. The petition of John K West, of New Orleans, curator of the estate of James Neil, deceased, respectfully showeth: that Domingo D'Arbel of said city is justly indebted to him, curator as aforesaid, in the sum of three thousand dollars, for this, to wit: For that whereas the said James Neil, some time in the month of August, in the year eighteen hundred and thirteen, purchased at the town of Kingston, in the island of Jamaica, a certain schooner known and called the Nuestra de Montserat, and for the payment of which said vessel the said Neil drew his bill upon the house of Lewis and Lee of New Orleans, for the sum of two thousand six hundred and seventy-six dollars and eighty-nine cents, but which said bill was not paid by said Lewis and Lee, the same not having reached the city of New Orleans until after the stoppage of the payment of bills by the said house of Lewis and Lee. And your petitioner further showeth, that the said vessel being afterwards intended for a voyage to Vera Cruz, and the said Neil not being a native Spaniard, a transfer, sometime in 1814 or 15, was made of the aforesaid vessel to the said Domingo D'Arbel for the better security of the aforesaid vessel, and the property therein; and that sometime in the year 1815 she sailed from the town of Mobile, bound to Vera Cruz, with a cargo on board for freight, and on her said voyage was met by the privateer Alertoe, and burned. And your petitioner further showeth, that the aforesaid privateer having afterwards been taken and brought into the port of New Orleans, the same, with the cargo on board, was libelled in the district court of the United States, sitting in New Orleans. That by a decree of said court the said Domingo D'Arbel did recover and receive of the proceeds of the aforesaid schooner freighted, the aforesaid sum of three thousand dollars as his proportion of the amount then and there ordered by the said court to be paid over to the respective claimants. And your petitioner showeth that the said sum of three thousand dollars the said Domingo D'Arbel did not pay to the aforesaid James Neil during his lifetime, nor any part thereof, nor has he paid the same, nor any part thereof, since the death of the said Neil, to your petitioner, curator as aforesaid. By reason whereof the said Domingo D'Arbel became chargeable and liable to pay to your petitioner the aforesaid sum of three thousand dollars, with interest and costs of suit, and being so chargeable and liable to pay to your petitioner the said sum of money, in consideration thereof undertook, and then and there faithfully promised to pay to your petitioner the aforesaid sum of three thousand dollars, whenever he should be thereunto requested so to do; yet the said Domingo D'Arbel, regardless of his said promises and undertakings, made as aforesaid, the said sum of money he has not paid, nor any part thereof, although thereunto frequently and amicably requested, but the same to content and pay he has hitherto altogether refused, and still does refuse to the damage of your petitioner, six thousand dollars, wherefor he brings suit, and

prays that process may issue requiring the said Domingo D'Arbel personally, or by attorney, to be, and appear before this said court, then and there to answer your petitioner's demand, and that he be then and there condemned, adjudged, and decreed to pay your petitioner the aforesaid sum of money, with interest and costs, and that such other and further relief be granted your petitioner as the justice and nature of the case may require, and he will pray, &c.

(Signed,) DUNCAN & CLARK, *for Pet'er.*

Came before me, John K. West, who doth affirm that the material facts set forth in the foregoing petition are true, and that the said Domingo D'Arbel is justly indebted to him, curator as aforesaid, in the sum of three thousand dollars.

(Signed,) JOHN K. WEST.

Affirmed before me, this 5th May, 1817.

MARTIN GORDON, *Cl'k.*

*Citation.*

THE STATE OF LOUISIANA, *First Judicial District:*

Citation. *Mr. Domingo de Arbel*—You are hereby summoned to appear at the office of the sheriff of the parish of New Orleans, and comply with the prayer of the annexed petition, or file your answer thereto in writing in the office of the clerk of the first judicial district court, at the city of New Orleans, in ten days after the service hereof.

Witness, Joshua Lewis, judge of said court, the 3d day of May, in the year of our Lord one thousand eight hundred and seventeen.

MARTIN GORDON, *Clerk.*

Sheriff's return. Served on the defendant, May 6th, 1817, and bailed by John Thilbout, which bail bond is returned with this writ.

Returned, May 6, 1817.

(Signed,) J. H. HOLLAND, *Deputy Sheriff.*

*Bail Bond.*

Bail bond. Know all men by these presents, that we, Domingo D'Arbel and John Thibout are held unto George W. Morgan, sheriff of the parish of New Orleans, in the State of Louisiana, in the penal sum of four thousand dollars, for the payment whereof to the said George W. Morgan, his executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, respectively, by these presents, as witness our respective names and seals, hereunto affixed at New Orleans, this 6th day of May, in the year one thousand eight hundred and seventeen. But the condition of this obligation is such that if the above bounden Domingo D'Arbel, in the custody of the sheriff, at the suit of John K. West, curator of James Neil, in the honorable the district court of the first judicial district of the State of Louisiana, but released from his said custody, at the time and by reason of the ensealing and delivery of these

presents, shall be cast in the said suit; that the said Domingo D'Arbel shall pay and satisfy the said condemnation of the court, or surrender himself in execution to the sheriff, then this obligation shall be void, or else to remain in full force.

(Signed,) DOM'O D'ARBEL. [SEAL.]
JOHN THIBOUT. [SEAL.]

Signed, sealed, and delivered, in presence of
JH. M. DAUVIAC.

*Assignment.*

I assign, transfer, and set over, all my right, title, and interest in and to the within obligation, to the within named plaintiff. Assignment.

(Signed) G. W. MORGAN, *Sheriff.*

*New Orleans, 6th May*, 1817.

At a session of the district court in and for the first judicial district of the State of Louisiana, holden in the city of New Orleans, on Thursday the 8th day of May, in the year of Lord one thousand eight hundred and seventeen, and in the forty-first yea of the independence of the United States.

JOHN K. WEST, curator of JAMES NEIL,
*vs.*
DOMINGO DE ARBEL.

This day came A. R. Ellery, esquire, of counsel for the defendant, and filed a petition praying the removal of this case into the district court of the United States for the Louisiana district.

Whereupon it was ordered by the court that upon the petitioner complying with the act in such case made and provided, that this case be removed to the district court of the United States for the Louisiana district. Order of court.

*To the honorable Joshua Lewis, Judge of the District Court of Louisiana, holden in and for the first Judicial District.*

The petition of Domingo D'Arbel, respectfully showeth, that your petitioner is a subject of his most Catholic Majesty, the King of Spain, and that a suit at law has been instituted in this honorable court against your petitioner, by John K. West, of the city of New Orleans, merchant, and a citizen of the State of Louisiana, as curator of the estate of James Neil, deceased, for the sum of three thousand dollars. Petition.

Wherefore your petitioner prays, in consideration of the premises, that the said suit at law may be moved for trial from this court into the next district court of the United States to be holden in and for the Louisiana district, upon your petitioners giving the requisite security, and complying with the provisions of the law in this behalf provided, &c.

(Signed.) ELLERY & SMITH, *for Pet'r.*

Personally appeared before me Domingo D'Arbel, the above named petitioner, who being duly sworn, doth depose that the facts contained in the

foregoing petition are true, and that this deponent is a subject of his most Catholic Majesty the King of Spain.

(Signed.) DOMINGO D'ARBEL.

Sworn and subscribed before me, this 8th day of May, 1817.

STEPHEN PEDESCLAUX, *Dep. Clk.*

*Appearance.*

*District Court of the State of Louisiana, for the first Judicial District.*

Appearance. Appearance of Domingo D'Arbel, a subject of his most Catholic Majesty the King of Spain, in the suit of John K. West, of the city of New Orleans, merchant, and citizen of the State of Louisiana, styling himself curator of the estate of James Neil, deceased, against the said Domingo D'Arbel, now pending in this honorable court.

(Signed) ELLERY & SMITH, *for Defen.*

*Bond.*

Know all men by these presents, that we, Domingo D'Arbel, at present sojourning in the city of New Orleans, but a subject of his most Catholic Majesty the King of Spain, and Pedro Deliaste, of Claveria, of the said city of New Orleans, are held and firmly bound unto John K. West of the said city of New Orleans, merchant, in the sum of two hundred dollars, to be paid to him, his heirs, executors, administrators, and assigns, for the said payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this 8th day of May, 1817. Whereas, the above bounden Domingo D'Arbel hath this day filed his petition in the district court of the State of Louisiana, holden in and for the first judicial district, was the removal of a suit brought therein against him by the said John K. West, as curator of the estate of James Neil, deceased, to the district court of the United States for the Louisiana district, pursuant to the act of Congress in such case made and provided.

Now, the condition of the above obligation is such that if the said Domingo D'Arbel shall enter into the said district court of the United States, on the first day of its session, copies of the process against him in the said suit, and for his there appearing, then this obligation shall be void and of no effect, or else to remain in full force and virtue.

(Signed) PEDRO DIEPASTE,
*of Claveria.*

Signed, sealed, and delivered in presence of

STATE OF LOUISIANA, *District Court, ss.*

I do hereby certify that the foregoing seven pages contain a just, true and faithful transcript of the record, in the case of John K. West, curator of James Neil vs. Domingo D'Arbel, instituted in this court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, this ninth day of [SEAL.] May, in the year of our Lord one thousand eight hundred and seventeen, and in the fifty-first year of the independence of the United States.

STEPHEN PEDESCLAUX, *Dep. Clerk*

And afterwards, to wit, at a session of the district court of the United States for the then Louisiana district, holden in the city of New Orleans on the 5th day of June, in the year of our Lord one thousand eight hundred and nineteen, the following order was entered on record, to wit:

JOHN K. WEST, curator of JAMES NEIL,
1044 *vs.*
DOMINGO D'ARBEL.

On motion of Mr. Ellery, and with consent of Mr. Duncan, it is ordered that Richard Relf and George M. Ogden be appointed referees in this case. Order for reference.

*United States District Court, Eastern District of Louisiana, ss.*

I, Franklin W. Lea, clerk of the district court of the United States for the eastern district of Louisiana, do hereby certify that the foregoing nine pages contain a full, faithful, and true copy of the transcript from the first judicial district court of the State of Louisiana, in the case wherein John K. West, curator of the estate of James Neil, is plaintiff, and Domingo D'Arbel is defendant, and also of the proceedings which have taken place in said cause in the district court of the United States for the then Louisiana district, but now eastern district of Louisiana.

In testimony whereof, I have hereunto signed my name, and affixed the seal of the said court at the city of New Orleans, this four-
[SEAL.] teenth day of December, in the year of our Lord one thousand eight hundred and thirty-one, and fifty-sixth year of American independence.

F. W. LEA, *Clk.*

*Eastern District of Louisiana, ss.*

I, Samuel H. Harper, judge of the district court of the United States for the State of Louisiana, do hereby certify that Franklin W. Lea, esquire, who has certified the foregoing transcript, is now, and was at the time of doing so, clerk of the district court of the United States for the eastern district of Louisiana, and to his official attestations as such full faith and credit are due, and that the attestation to said transcript is in due form of law. Witness my hand and seal, at New Orleans, the 14th December, 1831.

SAML. H. HARPER. [SEAL.]
*Judge U. S. for Lou.*

And also proposed to give in evidence that the said Domingo D'Arbel in the said record mentioned, is the same Domingo D'Arbel, one of the plaintiffs in this cause. Whereupon the plaintiffs, by their counsel, made the following objection to the evidence so offered.

*Plaintiff's Prayers.*

JOHN N. D'ARCY, HENRY DIDIER, DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

1st. If the jury believe, from the evidence, that Arbel, one of the plaintiffs, was an actual inhabitant of Louisiana before and on the 3d April, 1803, and continually from that time to 1819, and on 22d Pltffs. 1st and 2d prayers.

March, 1824, obtained, as a citizen of the United States, the passport heretofore given in evidence, and which was admitted to be the original paper which it purports to be, and that J Q. Adams, who signed said paper, was at the date thereof Secretary of State of the United States, that then said Arbel was a citizen of the United States, and they must find for the plaintiffs on the issue joined on the defendant's plea in abatement, it being admitted that the other plaintiffs are citizens of the United States.

2d. The plaintiffs' object to the giving in evidence the record so offered in evidence for the purpose for which it is offered by the defendant. First, Because if the jury find the facts stated in plaintiffs' 1st prayer, then they are bound to find a verdict for the plaintiffs on the issue on defendant's plea in abatement; and, secondly, because, if not concluded, the said record purports only to give a copy of a copy of the petition and affidavit alleged to have been filed in the said case in said record mentioned, and a copy of a copy of the said case as it purports to have been in the State court, which objection the court in part sustained, and gave the following opinion:

JOHN N. D'ARCY, HENRY DIDIER, DOMINGO D'ARBEL,
*vs.*
DOMINGO URTETIQUE.

Opinion of the court. It is the opinion of the court that the record offered in evidence in this cause cannot be admitted to be read in evidence.

1. It is res inter alias acta.

2. The transcript from the court of the State of Louisiana is certified by Stephen Pedesclaux, dep. clerk, without any official seal; and

3. The clerk of the district court of the United States certifies that the foregoing nine pages (meaning the record) contain a full, faithful, and true copy of the transcript from the first judicial district court of the State of Louisiana, in the case wherein John K. West, curator of the estate of James Neil, is plaintiff, and Domingo D'Arbel is defendant, &c. The certificate is in effect the copy of a copy.

To which opinion the defendant, by his counsel, prayed leave to except, and that the court here would sign and seal this his bill of exceptions, which is accordingly done, this 17th day of April, 1833.

G. DUVALL. [SEAL.]
ELIAS GLENN. [SEAL.]

*Defendant's Third Exception.*

JOHN N. D'ARCY, HENRY DIDIER, and DOMINGO D'ARBEL,
*vs*
DOMINGO URTETIQUE.

Defendt's 3d exception. The evidence having been given as set forth in the two prior exceptions by the plaintiffs, which is to be considered as forming a part of this exception; the defendant, further to support the issue on the plea in abatement, gave in evidence, by competent witnesses, that the said D'Arbel declared himself to have been a native Frenchman, and born near the borders between France and Spain; and that the said D'Arbel mention-

ed in the foregoing evidence is the same D'Arbel mentioned in the commission aforesaid. Thereupon the plaintiffs prayed the court that if the defendant offers no other evidence on the issue joined on defendant's plea in abatement than there is now before the jury, that then the plaintiffs are entitled to the verdict, if the jury believe the plaintiffs' evidence. Which prayer was granted by the court, to which the defendant, by his counsel, prayed leave to except, and that the court here would sign and seal this, his bill of exceptions, which is accordingly done, this 17th April, 1833.

Plaintiffs' 3d prayer.

G. DUVALL. [SEAL.]
ELIAS GLENN. [SEAL.]

*Defendant's Fourth Exception.*

DOMINGO D'ARBEL and others,
*vs.*
DOMINGO URTETIQUE.

Defendant's 4th exception. The plaintiffs, to support the issue on their part, gave in evidence, that, at the period of the transactions in controversy, they were merchants carrying on trade at Tampico, in Mexico, under the name and style of D'Arbel & Co., and the defendant, with John F. Didier, his partner, who died in August, 1825, were merchants in San Luis Potosi, trading under the name of John F. Didier; and also gave in evidence the following deposition of Jacob R. Drege, with the exhibits A and B therein referred to.

UNITED STATES OF AMERICA, *District and State of Maryland, sct.:*

Deposition of J. R. Drege. Be it remembered that, on the thirteenth day of October, in the year of our Lord one thousand eight hundred and thirty-one, at the city of Baltimore, before me, R. Wilson, jr., a commissioner appointed by the circuit court of the United States for the district aforesaid, in the fourth circuit of the said United States, under and by virtue of the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," personally appeared Jacob R. Drege, a witness for the plaintiffs in a certain civil cause now depending in the circuit court of the said United States for the district of Maryland, wherein John N. D'Arcy, Henry Didier, and Domingo Arbel, are plaintiffs, and Domingo Urtetique is defendant. And the said witness being by me first carefully examined, and cautioned, and sworn, to testify the whole truth, makes oath, deposeth and saith that he knows the defendant Domingo Urtetique; that said defendant has told this deponent that he was a partner of Mr. J. F. Didier, and Mr John F. Didier has also told deponent the same; that deponent knows the defendant's hand-writing; that the two papers now shown him, and herewith filed, marked A and B, are in the hand-writing of the defendant, except so much of the paper B from the word "Aleance," and included in brackets, to the bottom of the page. The paper A is altogether in defendant's hand-writing. The account B was merely balanced by deponent from entries furnished deponent by defendant, to wit, the entries furnished in said account. That the business of defendant's said house was carried on under the name of John F. Didier. That the partnership of said house ended with the death of Mr. Didier, which occur-

red in August, 1825. That the claim against the house of John F. Didier is not near so much as the balance shown by said account B, but from the confused nature of the entries this was the best manner in which the account could be made out, and it does not appear from the said account what portion of the debts were outstanding. That the credit side of said account shows the net proceeds of sales, but not what portion of the same were collected or outstanding.

JACOB R. DREGE.

UNITED STATES OF AMERICA, *District and State of Maryland, sct.*

I, R. Wilson, jr., a commissioner appointed by the circuit court of the United States for the district aforesaid, in the fourth circuit of the said United States, under and by virtue of the act of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," do hereby certify, that the reason for taking the deposition hereunto annexed, of Jacob R. Drege, is, that the said witness, being a resident of Mexico, is about going away immediately. I do further certify that the counsel for the defendant attended at the time of taking this deposition. I do further certify that I am not of counsel or attorney to either of the parties in said deposition mentioned, nor interested in the event thereof. That the said deposition was reduced to writing by me, and thereafter subscribed by the said deponent in my presence.

In testimony whereof, I have hereunto set my hand and seal, this thirteenth day of October, one thousand eight hundred and thirty-one, at the city of Baltimore, in the State aforesaid.

R. WILSON, Jr., *Comr.* [SEAL.]

*Exhibit A.*

We, Domingo de Urtetique and Domingo D'Arbel, both residents of this city, have mutually agreed to name judges arbiters, the first, Martin Bengoa, and the second, John Gutierrez Castillo, both merchants of this place, who, if necessary, are authorized to name a third person in case they disagree in the demand which said Arbel makes against said Urtetique, partner of the house of the late John F. Didier, respecting claims originating in the transactions consequent upon the business of Messrs. D'Arbel & Co. of Tampico, and the claims which said Urtetique makes against said gentlemen as testamentary executors of the deceased Didier; and, having mutually agreed to be governed by the final decision and sentence which the said arbiters may give, we oblige ourselves that the party who does not conform to the decision or sentence of the said arbiters, before entering any other demands shall credit in account or pay the other one thousand dollars. In fulfilment whereof, we bind ourselves, with our persons and property, which we now or hereafter may have, and renouncing all right therein. In confirmation of which we sign this document, in San Luis Potosi, 1st September, 1826.

(Signed) DOMINGO DE URTETIQUE.
(Signed) D'ARBEL.

In the terms of the anterior compromise, and under the same penalty of one thousand dollars, we agree and subject ourselves to be governed by, and to submit to, what the proper judges, arbiters, arbitrators, and friendly

adjusters, Martin Bengoa and John Gutierrez Castillo, may say and determine respecting the bonds that should be given, and time assigned for the conclusion and liquidaton of the accounts which we now have pending; and if both judges do not agree, we also authorize them to name a third. San Luis Potosi, November 6, 1826.

(Signed.) DOMINGO DE URTETIQUE.
(Signed.) D'ARBEL.

*Exhibit B.*

*Messrs. Domingo D'Arbel & Co., of Pueb.*

Dr.

| | | | | |
|---|---|---|---|---|
| 1823 | | | | |
| June | 19 | To amount remitted by the conductor, Jose Ma. Auraujo, in anticipation of cargo marked N and T - | – | $5,254 1 |
| | | Ditto of a draft on Jas. S. Wilcox, of Mexico, new money - - | $2,000 | |
| | | Premium, 3 per cent. | 60 | |
| | | | | 2,060 |
| Septr. | 20 | Do remitted by the conductor, Blas Araujo, pr invoice - - | – | 48,967 1½ |
| Nov. | 22 | Do do do do - | – | 34,709 1 |
| Decr. | 27 | Do do do do Antonio Reges | – | 24,207 7 |
| 1824 | | | | |
| Jany. | 24 | Do do do do Blas Araujo | – | 24,013 0½ |
| " | 26 | Do of J. N. D'Arcy's draft in favor of Wm. Taylor - - - | – | 100 |
| | | Do their do. Amb. Nelson - | 5,934 | |
| | | Premium 4 pr cent. | 237 3 | |
| | | | | 6,171 3 |
| Feby. | 27 | Do remitted by the conductor Felipe Torre - - - | – | 14,932 6 |
| | | Do of a draft from Guadalaxara in their favor on Dn Anto. Maria, Miranda of Pueblo Viejo - - - | 3,500 | |
| | | Premium 7 pr cent. | 245 | 3,745 |
| March | 31 | Do remitted by the conductor, Blas Araujo | – | 17,174 6½ |
| May | 20 | Do do do do do | – | 19,013 5 |
| June | 22 | Do do do John Felix Castillo | – | 16,791 |
| July | 21 | Do do do do do | – | 20,939 6 |
| Septr. | 3 | Do do do Jose Ma. Araujo | – | 25,658 |
| " | 13 | Do do do by Jose Bejarano of Zacatecas pr conductor Domingo Lopez | – | 2,000 |
| Nov. | 3 | Do remitted pr conductor Blas Araujo | – | 32,764 |
| " | 22 | Do of the Commissary Genl. of San Luis 3 drafts in their favor on the custom-house of Soto la Marina - | – | 14,000 |
| | | Do of two drafts remitted by Henry Didier to Messrs. Hodgson and Bros. of Mexico - - - | – | 5,594 |
| Decr. | 1 | Do of a draft received by Thomas Fernes of John Bestiqui, in Guanajuato on acc. of Henry Didier - - | 1,999 | |
| | | Premium ¼ pr cent. | 5 | |
| | | | | 2,004 |
| | 10 | Do remitted pr conductor John Jose Araujo - - - - - | – | 10,017 2½ |

*Exhibit B.*

*Viejo, in acct. current with John F. Didier.*

Cr.

| | | | |
|---|---|---|---|
| 1823 | | | |
| Octr. 4 | By amt. of a draft on Manuel Blandin, of | | |
| 1824 | Saltillo, dated 20th ultimo - | – | $850 |
| May 11 | net proceeds of 34 bales of wax pr acct. sales - - - | – | 7,455 1½ |
| | do do 80 boxes wine do | – | 413 4 |
| June 1 | do 180 jars of oil do | – | 864 6¾ |
| | balance resulting in favor of Manuel Blandin, of Saltillo, and credited to them - - - | – | 4,197 4 |
| Aug. 21 | net proceeds of the goods marked H pr acct sales - - | – | 19,403 2½ |
| Octr. 4 | do of 100 flasks quicksilver pr acct sales | – | 5,841 1½ |
| 15 | do of the goods of the cargoes of the United States and Edward, marked | | |
| 1825 | T and N, pr acct sales - | – | 135,514 1½ |
| Jany. 10 | amount of John Munoz's note | – | 205 3½ |
| 17 | do a draft in favor of Robert Ralston on them - - - | – | 500 |
| Feby. 24 | net proceeds of pepper and cinnamon pr acct sales - - | $5,465 ½ | |
| | do do pr Thos. Harrison's acct sales 10th January - - | 1,823 2 | |
| | | | 7,288 2½ |
| | do a box of beads - - | – | 320 3¾ |
| | do 100 bales of cocoa sold in St. John of the lakes, 16th Decr. - | – | 5,749 |
| March 1 | do the goods marked $\frac{D}{T}$ pr acct sales at | | |
| | San Luis - - - | 31,130 2½ | |
| | at Guanajuato - - | 2,809 1 | |
| | St. John of the Lakes - | 4,899 2 | |
| | | | 38,838 5½ |
| " 1 | do amt do do in Guadalajara pr acct sales 25th April, 1824 - | – | 26,938 4 |
| " 12 | do do pr acct sales $\frac{D}{A}$ San Luis | 18,437 4¾ | |
| | Guanajuato - - - | 5,607 6 | |
| | St. John of the Lakes - | 1,361 2 | |
| | | | 25,406 4¾ |
| | do 91 flasks quicksilver, sold in Jurango, by Thos. Harrison, 10th Jan. | – | 5,840 6 |
| | do goods marked $\frac{D}{A}$ do 24th do | – | 29,110 1 |
| | do do $\frac{D}{T}$ do do do | – | 23,859 6 |
| | do the rest of those goods do 1st Mar. | – | 7,111 5 |

ACCOUNT—

Dr.

| | | | | |
|---|---|---|---|---|
| 1824 | | | | |
| Decr. | 31 | To Jose Zuniga's draft in their favor on Franco. Valle and Pasqual, of Pueblo Viego - - - | $500 | |
| | | Premium 5 pr cent. | 25 | |
| | | | | $525 |
| | | Do from Guanajuato on Mexico on acc. | | |
| 1825 | | of Dr. Rafael Urtetiqué sales | – | 7,593 |
| Jany. | 5 | Do delivered here to Henry Didier | 25,000 | |
| | | Premium and charges | 565 | |
| | | | | 25,565 |
| | | Do Francisco Gonzales Rubalcavo's note, payable in Guanajuato, and delivered to Henry Didier - - | 3,667 6½ | |
| | | Do Anéceto Villegas' note do do do | 1,300 | |
| | | | | 4,967 6½ |
| Feby. | 4 | Do remitted pr conductor Torres | – | 41,019 4 |
| March | 1 | Do do do John Felix Castillo for a draft in favor of Mr. Spooner, which deduct from this quantity | 11,741 7<br>1,243 ½ | |
| | | | | 10,498 6½ |
| | 28 | Do remitted pr conductor Blas Araujo | – | 25,023 |
| April | 14 | Do of a draft on George Robertson in their favor - - - | – | 84 3½ |
| | 26 | Do do do Wm. Gaul do | – | 48 |
| May | 1 | Do remitted pr conductor Blas Araujo | – | 18,200 |
| | 13 | Do of a draft on Manning and Marshall remitted by John Bestequi, of Guanajuato to Hodgson, Penny, and Bros., of Mexico - - - | 1,162 | |
| | | Do of a draft on Guati Palencia do do | 5,006 | |
| | | Do of 9 bars of silver, including charges | 11,186 2¾ | |
| | | | | 17,354 2¾ |
| | | Do of a draft on Mr. Baz, of Mexico, remitted by Lewis de la Porte to said gentlemen - - | 5,000 | |
| | | Premium 8 pr cent. | 400 | |
| | | Amount of 10 bars of silver, including charges to San Luis - - | 12,171 | |
| | | | | 17,571 |
| Aug. | 29 | Do remitted pr conductor Blas Araujo | – | 5,104 1½ |
| June | 20 | Do do do John Jose. Araujo | – | 14,425 5½ |
| | | | – | |
| | | Balance - - | | 34,125 2¾ |
| | | | | 550,222 6 |

Continued.

Cr.

| | | | |
|---|---|---|---|
| 1825 | | | |
| March 17 | By amt of 18 barrels of wine sold here | – | $1,919 |
| April 18 | do 14 bales almonds pr. acct sales | – | 511 4 |
| " 19 | do a draft in favor of Michael Mahon on them - - - | – | 209 2 |
| March 22 | do the goods marked $\frac{D}{N}$ in San Luis | $17,398 2½ | |
| | Guanajuato - - - | 2,854 6½ | |
| | St. Johns of the Lakes - | 4,707 4 | |
| | | | 24,960 5 |
| | net proceeds of 46 boxes of steel sold in Durango by Thos. Harrison, 10th January - - | – | 2,266 4½ |
| April 18 | do the goods marked P pr acct sales | 47,349 5½ | |
| | Guanajuato - - - | 775 3 | |
| | | | 48,125 ¾ |
| " 19 | do do $\frac{D}{M}$ acct sales - | 15,191 7½ | |
| | St. John of the Lakes - | 906 1½ | |
| | | | 16,098 ¾ |
| May 18 | do do 8 barrels wine pr acct sales | – | 311 |
| | do the goods sold by John Bestequi in Guanajuato, pr acct sales - | – | 12,517 4½ |
| | sales made by Manuel Blandin, the goods marked $\frac{D}{N}$ April 18 - | 32,645 1½ | |
| | do do P do - | 10,425 6 | |
| | do do $\frac{D}{M}$ do - | 6,871 3½ | |
| | | | 49,942 3 |
| May 18 | do net proceeds blue nankeens Decr. 13th, 1824 - - | – | 611 1½ |
| | do the goods marked $\frac{D}{A}$ in April 18 | – | 2,557 5 |
| | do do sold by Thos Harrison, Jan. 10 | – | 2,389 4½ |
| | do the sales of Lewis de la Porte in Guadalajara - - | – | 31,065 4 |
| | do do James Minguez, medicines | 832 7 | |
| | paper-hangings | 184 3 | |
| | hardware | 151 6 | |
| | tin ware | 180 | |
| | | | 1,349 |
| Octr. 28 | do the goods sold by Rafael Urtetique in Guanajuato, marked T - | – | 1,186 |
| | do the iron pr acct sales - | – | 1,009 5½ |
| | do cocoa do - - | – | 7,484 2 |
| | | | $ 550,222 6 |

NOTE.—The sums charged under the following date,

| | | |
|---|---|---|
| 1824, Nov. 22 | - - - - - | $5,594 |
| Dec. 1 | - - - - - | 2,004 |
| 1825, Jany. 5 | - - - - - | 565 |
| " " | - - - - - | 4,967 6½ |
| | | $13,130 6½ |

cannot be credited in account with Mr John F. Didier, by Messrs. D'Arbel and Co. until Mr. Henry Didier advises that they are correct, at present not being in the books of said gentlemen; and Mr. Henry only having a knowledge whether said charges are correct or not.

And gave in evidence, by a competent witness, that the items in the account marked B, referred, to with the exception of a small part thereof, were the sale of goods and merchandize consigned by Thomas Tenant and James Bosley, of the city of Baltimore, to the plaintiffs in Mexico for sale, and afterwards sent by the latter to the house of John F. Didier for sale; and further that the plaintiffs were interested in the said goods and merchandize $\frac{3}{16}$ths, and the said Tenant and Bosley $\frac{1}{16}\frac{3}{}$ths. The plaintiffs offered to give in evidence the following account current:

*John F. Didier, Esq., deceased, in*

DR.

| 1824 | | | | |
|---|---|---|---|---|
| Jany. 26 | To this sum you received of Ml. Blandin in September last - - | – | $ | 850 |
| March 31 | " expenses of packing patent balances, sent to San Luis - - | – | | 6 |
| April 30 | " cash paid for a case of liquors for Padre Medina - - | – | | 52 75 |
| May 20 | " proceeds of 34 bales of wax per your acct. sales dated 11th inst. - | – | | 7,455 20 |
| June 11 | " do 180 jars oil, 1st inst. - | – | | 864 84 |
| " 25 | " cash paid Mr. Bertrand for stationary sent you - - | – | | 32 25 |
| | " proceeds of 80 boxes wine per your acct. sales of 11th May | – | | 413 50 |
| " 30 | " cash paid for 7 doz. porter and five hams, packing, &c. - | – | | 55 50 |
| | " amount of sundry drafts forwarded to you by Ml. Blandin from Saltillo for collection - - - | – | | 4,197 50 |
| Octr. 1 | " proceeds of part of Haytien's cargo pr your acct. sales of 21st August | – | | 19,403 31 |
| Nov. 1 | " do 100 flasks quicksilver, sold in Zacatecas per acct. sales 4 ultimo | – | | 5,841 19 |
| Nov. 1 | " cash paid duties on wine and cider sent you this day - - | $14 56 | | |
| | " do for 6 doz. wine sent you in Jan. last - - - | 42 | | |
| | | | | 56 56 |

| | |
|---|---|
| By balance in favor of D'Arbel & Co. - - | $34,125 2¾ |
| | 7,593 |
| | 41,718 2¾ |

B.

R. W. Jr. *Comr.*

*account current with D'Arbel & Co.*

Cr.

| | | | |
|---|---|---|---|
| 1823 | | | |
| July 7 | By amt of your inv of $5,000 advanced on acct cargoes pr Ned and U. S. | – | $5,254 12 |
| Decr. 1 | " do specie rec'd from S. Luis per Blas Araujo - - | – | 48,967 18 |
| 1824 | | | |
| Jany. 10 | " do 1 Jose Maria - - | – | 34,709 12 |
| | " do Reyes - - | – | 24,207 88 |
| " 16 | " drafts on Wilcox for $2,000, add 3 pr cent. $60 - - - | – | 2,060 |
| " 22 | " do of your inv of $22,700 rec'd pr Blas Araujo, less defct $3 - | – | 24,010 06 |
| Feby. 11 | " our J. N. D'Arcy's draft on you in favor of Wm. Taylor - | – | 100 |
| March 31 | " cash rec'd for a draft on Miranda, remitted from Guad'e - | 3,500 | |
| | Premium paid for do 7 pr cent | 245 | |
| | | | 3,745 |
| | " amt of invo of $14,000 received per Torres from San Luis - | – | 14,932 75 |
| April 21 | " do $16,300, Blas Araujo do | – | 17,174 80 |
| May 20 | " our draft on you at 30 days in favor of Ambro. Nelson - - | – | 5,934 |
| June 11 | " invo of $18,000 rec'd this day per Blas Araujo from San Luis | – | 19,013 62 |
| July 10 | " amt of invo of $16,000 rec'd this day per Blas Araujo from San Luis | – | 16,791 |
| Aug. 14 | " do $20,000 Cayt. Punta do | – | 20,939 75 |

ACCOUNT—

Dr.

| | | | |
|---|---|---|---|
| 1824 | | | |
| Nov. 1 | To net proceeds of part of the cargoes pr Ned and United States as pr your acct sales to 15th Oct. last (corrected) | – | 135,514 20 |
| Decr. 31 | " cash paid for 1 cask wine sent you | $40 | |
| | " " Juan J. Araujo for freight on 6 boxes mineral, &c. - - | 28 | |
| | | | 68 |
| 1825 | | | |
| Jany. 10 | " " Santeen for 2 bbls wine sent you | 80 | |
| | " " " 3 doz cider - | 22 50 | |
| | | | 102 50 |
| " 17 | " " your draft in favor of Robert Ralston for - - - | – | 500 |
| " 24 | " " servant who came down with Mr. Spooner - - | – | 40 |
| " 30 | " proceeds of a box of beads per your acct sales of 25th Octr. last | – | 318 47 |
| Feby. 28 | " cash paid for a caddy of tea sent to San Luis - - - | – | 6 |
| March 10 | " proceeds of cinnamon and pepper pr acct sales at San Luis, dated 24th February - - | 5,465 06 | |
| | " do by T. B. Harrison per sales 10th January - - | 1,823 24 | |
| | | | 7,288 30 |
| April 12 | " do do Tampico 1st cargo pr acct sales at San Luis, dated 1st March, 1825 - - - | 31,130 31 | |
| April 12 | " do do Guanacuato do - | 2,809 12 | |
| | " do do San Juan do - | 4,899 25 | |
| | " do do Guadalaxara do - | 26,938 50 | |
| | | | 65,777 18 |
| | " amt of Munoz's note sent you for collection - - - | – | 205 44 |
| | " amt proceeds sales at Durango of Tampico's 1st cargo by T. B. Harrison, viz. of 91 flasks quicksilver pr sales 10th Jany. - - | 5,840 73 | |
| | " dry goods per his acct sales 24th Jan. | 23,859 78 | |
| | " residue of dry goods per do | 7,111 65 | |
| | | | 36,812 16 |
| | " of Tampico's 2d cargo pr acct sales dated San Luis, 12th March, viz. proceeds of sales at San Luis | 18,437 59 | |
| | " " " Guanac'a - - | 5,607 75 | |
| | " " " San Juan - - | 1,361 24 | |
| | " " " by T. B. Harrison at Durango, per his acct sales dated 24th Jan. | 29,110 11 | |
| | | | 54,516 69 |

Continued.

Cr.

| | | | | |
|---|---|---|---|---|
| 1824 | | | | |
| Sept. | 24 | By amt $25,000 Jose Ml. Araujo do San Luis $25,658, less $7 defct | – | $25,651 |
| " | 28 | " cash rec'd pr Arro Dom'go Lopez from Zacatecas acct of Don Jose Begarance | – | 2,000 |
| Nov. | 19 | " amt 3 drafts drawn by the Commissary General on the custom-house at Marina - - - | – | 14,000 |
| | | " do invo of $31,500 rec'd this day per Blas Araujo - - | – | 32,764 62 |
| Decr. | 31 | " do 3 drafts on Mexico rec'd on acct of Ralph Urtetique's sales in Guan'a and handed over to our Hy. Didier | – | 7,593 |
| | | " do of invo of $9,500 received this day per Juan Jose Araujo | – | 10,017 31 |
| 1825 | | " do Zunegas bill on Battle and Paqual collected by us | – | 500 |
| Jany. | 5 | " this sum our Henry Didier rec'd in San Luis, which was negotiated with Messrs. Spooner and Feens for bills on Sands, Spooner & Co. - | – | 25,000 |
| | | " Bestequi's draft on Manning and Marshall, remitted Hodgson, Penny and Brothers, Mexico - - | – | 1,162 |
| Feby. | 22 | " do invo of $40,429 rec'd this day per Torres from San Luis - | – | 41,019 50 |
| March | 16 | " do do $11,500 pr Felix Castillo | $11,741 87 | |
| | | " less Ml. Spooner's draft in our favor | 1,243 06 | |
| | | | | 10,498 81 |
| March | 20 | " amt invo of 12 bars silver rec'd from L. Delaporte at Guadalaxa. and by him forwarded Hodgson P., and Bro | – | 12,171 |
| April | 14 | " your draft on Ge. Robertson collected | – | 84 44 |
| " | 15 | " " invo of $24,453 per Blas Araujo, less deficiency $2 - | – | 25,021 |
| " | 26 | " your draft on D. W. Gaul collected | – | 48 |
| May | 7 | " draft rec'd from Biestique, and remitted H., P. and Bro - | 5,000 | |
| | | premium at 3 per cent - | 150 | |
| | | | | 5,150 |
| " | 26 | " draft rec'd from Delaporte, and forwarded H., P. and Bro - | 5,000 | |
| | | premium at 8 per cent - | 400 | |
| | | | | 5,400 |
| | | " 5 bars of silver remitted Hodgson, P and Bros. as per his statement of costs | – | 6,000 94 |
| | | " invo of $18,000 dated 10th inst, rec'd per Blas Araujo - - | – | 18,200 |

ACCOUNT—

Dr.

| 1825 | | | | |
|---|---|---|---|---|
| April 12 | To amt of *a* 100 bales of cocoa pr acct sales at San Juan of 16th Decr - | – | | $5,749 |
| May 4 | " of 48 barrels of wine at San Luis, 17th March, 1825 - - | – | | 1,919 |
| | " 14 bales of almonds, 18th April | $511 | 50 | |
| | " cash paid your draft this day in favor of Ml. Mahon for - - | – | | 209 25 |
| June 1 | " net proceeds of 8 bbls wine per acct sales dated S. Luis, 17th May, 1825 | – | | 311 |
| | " subscription to the Filanthrophe on his account - - - | – | | 3 50 |
| July 31 | " proceeds of 300 ps blue nankeens per Blandin's acct sales at Durango, 13th December - - - | – | | 611 20 |
| | " proceeds of goods, Tampico's 2d cargo, 18th April - - | – | | 2,557 63 |
| July 31 | " proceeds schooner U. States' 2d cargo pr acct sales dated San Luis, 22d March, viz. proceeds at San Luis | 17,398 | 31 | |
| | " " " Guan'a by Rafl. Urtiteque | 2,854 | 81 | |
| | " " " San Juan, Dom'o Urtiteque | 4,707 | 50 | |
| | " " " Durango, Harrison of 46 b. steel - - - | 2,266 | 56 | |
| | " of Blandin's acct sales 18th April | 32,645 | 20 | |
| | | | | 59,872 38 |
| | " proceeds of Potosi's 1st cargo pr acct sales, dated San Luis 18th April, 1825, viz. net proceeds at San Luis | 47,474 | | |
| | " Guan'a by R. Urtiteque - | 775 | 38 | |
| | " Durango, M. Blandin, pr his acct sales of 18th April - - | 10,425 | 77 | |
| | | | | 58,675 15 |
| | " net proceeds of Tampico's 3d cargo per acct sales dated at San Luis 19th April, 1825, viz. proceeds at San Luis - - - | 15,191 | 90 | |
| | " " " Juan de los Logas - | 906 | 16 | |
| | " (dated 10th Jan.) at Durango by Harrison - - - | 2,389 | 57 | |
| | " ( " 18th April) do Blandin | 6,871 | 40 | |
| | | | | 25,359 03 |
| Aug. 16 | " 2 doz chairs forwarded from Marina by T. Labrucre - - | – | | 72 |
| | " net proceeds of parts of sundry cargoes, (per his acct sales of 13th May) rather Biestequi's acct sales at Guanuaxato - - - | – | | 13,517 53 |

Continued.

Cr.

| | | | | | |
|---|---|---|---|---|---|
| 1825 | | | | | |
| May | 30 | By 5 bars of silver remitted Hodgson, Penny and Bros., Mexico, by Biestique - - - | | – | $5,185 40 |
| July | 13 | " amt of invo of $13,823 dated 20th June, rec'd pr Juan J. Araujo | | – | 14,425 69 |
| Sept. | 13 | " " invo $3,000 J. R. do of 29th August, pr Blas Araujo - | | – | 3,104 19 |
| " | 30 | " charges on moneys rec'd at San Luis from Durango, omitted in his invo. dated 14th June, 1825. - | | – | 1,729 25 |
| Octr. | 19 | " of Williamson's drafts on the Anglo Mexican Association, rec'd from E. Didier on his account - | | – | 1,901 20 |
| Nov. | 12 | " money rec'd by E. Didier from Blandin in August last - - | | – | 5,000 |
| Decr. | 5 | " this amount paid Sauco acct - | | – | 40 |
| " | 10 | " amt of freights omitted in sales of the following cargoes, viz. sales of cargo pr Ned and U. S. - - | $205 | | |
| | | " 3d do Tampico - | 150 | | |
| | | " 1st do Potosi - - | 199 | | |
| | | " 2d do U. States - | 150 | | |
| | | | | | 704 |
| " | 14 | " E. Didier's 2 invoices of $9,464 88, dated San Luis 22d Nov., 1825, received per Blas Araujo with charges | | – | 9,754 40 |
| " | 19 | " premium on $25,500 - | 590 | | |
| | | " our J. N. D'Arcy's expenses to, at, and from San Luis - - | 636 | | |
| | | " private do of our J. N. D'Arcy and H. D. - - - | 510 | | |
| | | " error in sales of schr Potosi's 1st cargo | 89 50 | | |
| | | | | | 1825 50 |
| 1826 | | | | | |
| Jany. | 3 | " this amt in drafts remitted R. P. Staples & Co. for collection by J. R. Drege - - - | 9,400 | | |
| | | " premium paid for new money bor to purchase drafts - - | 151 | | |
| | | | | | 9,551 |
| " | 5 | " Palmer and Hamilton's n't sales of calicoes, pr proportion thereof | | – | 411 |
| " | 17 | " amt of E. Didier, Dall & Co's sales dated 12th inst at the fair of San Juan, goods found in the possession of Biestique - - | | – | 2,446 19 |
| | | " due by Jno. Vernon on acct of his sales of goods, the property of Jas. Bosley and Thos. Tenant, esqrs. | | – | 1,378 03 |

ACCOUNT—

Dr.

| | | | | |
|---|---|---|---|---|
| 1825 | | | | |
| Sept. 30 | To amt. viz. net proceeds of sales per schooners Ned and U. S. - | | $1,318 49 | |
| | " Tampico's 1st voyage - | | 3,325 27 | |
| | " do 2d do - | | 8,068 75 | |
| | " U. States' 2d do - | | 6,691 42 | |
| | " Tampico's 3d do - | | 3,656 60 | |
| | " Potosi's 1st do - | | 7,853 97 | |
| | | | | $30,914 50 |
| Decr. 5 | " drawing of power of attorney in favor of Drege to administer - | | – | 9 88 |
| " 10 | " sales of cargo per schr Ned and U. S., viz. crate plated ware at Guad'a by Santa Mingoes - - | | 180 | |
| | " paper hangings do - | | 184 38 | |
| | " hardware do - | | 151 75 | |
| | " platillas and hdkfs sold by R. Urtiteque at Guan'a per acct sales 28th Octr., 1825 - - | | 1,186 | |
| | " sales of 400 ps cambrics, 1 beaga shawl, and 7 p Bretagnes at the fair of San Juan, and acct sales not received - - | $2,580 50 | | |
| | less charges by us proportioned - | 206 01 | 2,374 49 | |
| | | | | 4,076 62 |
| | " 69 bales Island, and 42 of Maracaibo cocoa, as furnished by agent, J. R. Drege, per his acct sales dated San Luis, 28th Octr., 1823 - | | – | 6,204 85 |
| | " of schooner Potosi's 1st cargo per J. R. Drege's acct sales dated San Luis, 28th Octr., 1825 - | | 1,279 40 | |
| | " iron per do do - | | 1,009 69 | |
| | " 6 boxes medicines pr do - | | 832 37 | |
| | | | | 3,121 96 |
| 1826 | | | | |
| Jany. 28 | " sales of schooner Tampico's 3d cargo net proceeds of M. Blandin's sales at Durango of 31st Decr., 1825 | | 9,214 77 | |
| | " less amount of sales charged him 20th May, 1825 - - - | | 6,871 40 | |
| | | | | 2,343 37 |
| Jany. 28 | " sales of schooner United States' 2d cargo | | | |
| | " proceeds of Blandin's sales at Durango of 31st Decr - - | | 41,288 67 | |
| | " less amt sales charged him 20th May, 1825 - - - | | 32,645 21 | |
| | | | | 8,643 46 |

Continued.

Cr.

| | | | |
|---|---|---|---|
| 1826 | | | |
| Jany. 25 | By amt rec'd from J. R. Drege in specie net proceeds of doubloons - | – | $1,224 38 |
| | " charges paid in San Luis on the above remittances - - | – | 4 63 |
| " 31 | " the following outstanding debts on sales of the cargoes per schooners Ned, U. States, Tampico, and Potosi, viz. by Abel Ferrill - | $4,159 37 | |
| | Juan Vergara - | 935 63 | |
| | Jose Bejarano - | 3,680 25 | |
| | Juan Balado - | 3,133 50 | |
| | Pedro San Juan - | 793 37 | |
| | Manuel Bonet - | 421 44 | |
| | Juan Lombardine - | 572 50 | |
| | " sundry persons in Guadal'a on acct 1st January - - | 337 47 | |
| | | | 14,033 53 |
| March 3 | " amt rec'd from J. R. Drege as balance of acct due by Ml. Blandin | – | 1,350 |
| | " of charges on the above as rendered by Mr. Drege - - | – | 37 40 |
| | Balance due D'Arbel & Co. this day | – | 13,191 92 |
| | Dollars - | | 567,218 61 |

ACCOUNT—

Dr.

| | | | |
|---|---|---|---|
| 1826 | | | |
| Jany. 28 | To sales of schooner Potosi's 1st cargo, net proceeds of Blandin's sales at Durango of 31st Decr - | $13,584 03 | |
| | " less amt of sales charged him 20th May, 1825 - - - | 10,425 77 | |
| | | | $3,158 26 |
| | Dollars - | - | 567,218 67 |

1826
April 19. To balance due D'Arbel & Co. brought down $13,191 92

E. E.

Tampico, *April* 19, 1826.

D'ARBEL & CO.

Continued.

| | | | Cr. |
|---|---|---|---|
| 1826 | | | |
| | Dollars - | – | 567,218 61 |

Evidence of W. G. Wetherall.

And offered to prove by William G. Wetherall, that said account is in the hand-writing of one Lewis, who was at that time a clerk of the plaintiff's at Tampico, and now residing in South Carolina; that the letters E. E. and the words and figures, and signature at the foot of said account, are in the hand-writing of the witness. That the said account current was copied by said Lewis from the books of the plaintiffs, and exhibited on the debit side the net amounts of the account sales, which had been transmitted from time to time by the house of John F. Didier to the plaintiffs; and which account sales, as received, were entered into the plaintiffs' books, which books, during the period comprised in said account current, were kept by the witness, and that said books and account sales were lost with the United States' vessel Hornet. That the witness believes the said account current to be accurately copied from the books of the plaintiffs. That it was compared with said books either by the witness himself or by his direction, by one of the plaintiff's clerks, but he rather thinks it was by himself; that the said account sales so transmitted from the firm of John F. Didier were, during his lifetime, signed by himself or the defendant, and those transmitted after his death were signed either by the defendant or by said Drege. That the said witness was partner in the house of D'Arbel and Company, from the 1st May, 1825, to the year 1831, when the firm was dissolved, but was not interested in the transactions in the said account current mentioned. The witness aforesaid further testified that he placed in the post office a copy of the said account current, directed to the house of John F. Didier at San Luis, or to Drege, but whether received by defendant or not, he has no knowledge, except that he afterwards saw a letter to the plaintiffs acknowledging the receipt of said account current, dated at San Luis, and signed either by Drege for John F. Didier, or by Urtetique, but he thinks it was most probably signed by Drege as aforesaid: this letter was also lost with the said books in the Hornet; and did not object to the correctness of said account, nor did he admit its correctness.

Evidence of E. Didier.

The plaintiffs further offered in evidence by *by* Edmund Didier, a competent witness, and administrator in Maryland of said John F. Didier, in support of said account current, that he employed the said Drege to go out to Mexico in October, 1824, as a clerk for John F. Didier; that he was so employed by said Didier occasionally, but more frequently by the witness as clerk; that he frequently saw the said Drege and the defendant engaged after the death of John F. Didier, in the accounts of that house with the plaintiffs, and that said Drege became a partner of the house of E. Didier, Dall, and Company, when that house was first formed in January, 1826. To the admission of which account current in evidence, and of the testimony offered to support the same, the defendant, by his counsel, objected; but the court overruled the objection, and permitted the said account, and the testimony offered to support the same, to go to the jury. To which opinion the defendant, by his counsel, prayed leave to except, and that the court here would sign and seal this his bill of exceptions, which is accordingly done, this 19th day of April, 1833.

G. DUVALL. [SEAL.]
ELIAS GLENN. [SEAL.]

*Defendant's Fifth Exception.*

D'Arbel & Co., *vs.* Domingo Urtetique.

Defdt's 5th exception. Thereupon the defendant, to support the issue on his part, and to show that the said paper B does not exhibit a correct statement of the accounts between the plaintiffs and the house of John F. Didier, and that the said accounts yet remain unascertained and unsettled; and also to show that the said Drege was the agent of the plaintiffs, and that, after the death of said Didier, he, as such agent, took possession of the books and concerns of the said house, and exclusively managed the same, produced and read in evidence the following letters, which were admitted to be in the hand-writing of the respective parties, by whom they purport to have been written.

San Luis, Potosi, 21*st August*, 1824.

Mr. John F. Didier.

Letter from H. Didier to John F. Didier, dated San Luis, 21st August, 1824.

*Dear Sir:* On my arrival here we made an arrangement that your charges for commissions on sales and remittances should be 2½ per cent., and one per cent. on amount of invoices for receiving and forwarding goods to other towns, and for remittances to the coast of the proceeds of said goods. You have since stated to me that you are under a heavy rent for stores, &c.; I have no objection to your charging ½ per cent. on the sales of all abarrotes which D'Arbel & Co. makes to your consignment, so that, on the Haytien's cargo and all others of the same description, you will charge 3 per cent. for sales and storage. I wish you to consult your partner on the above, and let me have your answer.

Yours, &c.

H. DIDIER.

Mr. John F. Didier.

San Luis, Potosi, 23*d August*, 1824.

Henry Didier, Esq.

Letter from J. F. Didier to H. Didier respecting the commissions, Aug. 23, 1824.

*Dear Sir:* Your letter of 21st inst. respecting the arrangement of your business through my agency, in which you allow me 2½ per cent. on sales and remittances, and one per cent. on amount of invoice for receiving and forwarding goods to other places, and for remitting to the coast the proceeds of said goods, and that, in consequence of my heavy rent, and other expenses, you allow me one half per centum additional on the sales of abarrotes in order to cover storage; and, in lieu of 2½ per cent., we will in future charge 3 per cent. This arrangement Don Domingo and myself are perfectly satisfied with, and feel obliged for this proof of your friendship, and hope, by our exertions and honest regards for your interests, to meet still more your approbation.

Yrs., truly,

J. F. DIDIER.

*Copy of the letter to H Didier respecting the Commissions.*

[PRIVATE.]

Letter from H. Didier to J. Didier, Dec. 28, 1824.

DEAR JOHN: When Don Domingo has made up a list of the goods on hand, if he will give me a list of the goods purchased by you for Mr Camatcho, I will make a deduction in the prices; also give me a list of the goods which you have purchased for your retail store since my arrival here, in order that I may make a deduction to pay your loss at the fair. I can make a deduction on all the cargoes except the first cargoes of the Ned and United States: the sales of these cargoes have gone to the coast. Also, hand me a copy of your invoice to Don Pedro San Juan, and I will examine if a deduction can be made on that.

Yours, &c.

H. D.

*28th Decr.*, 1824.

Mr. JOHN F. DIDIER.

TAMPICO, *5th August*, 1825.

Letter from J. N. D'Arcy to Don Domingo Urtetique, dated, Tampico, Aug. 5, 1825.

DEAR SIRS: You will have been informed by some of our mutual friends at San Luis, of my having very recently returned to this country, and in my letter to my brother-in-law, Mr. J. F. Didier, announcing my safe arrival. I did not forget to request him to present you my respects, and that it would afford me much pleasure to hear from you.

By last post I had a few lines from Mr. Didier, in which he states he was not only sick himself, but that you have been confined, and was then recovering, which circumstance I was very glad to learn. As my chief object of visiting this country at this time, is to close the accounts of my friends, Messrs. Thomas Tenant and James Bosley, I was quite mortified to find that your house has been delinquent in sending to Messrs Arbel & Co. here, the various accts. of sales, statements, &c., together with your account current; which circumstance has retarded the final settlement with my friends in America, nor can that end be accomplished until you furnish such sales as you have not yet rendered, and which you will permit me to call your attention to without any delay. I always, my good friend, had every confidence in you, and I have proved it by assuring Messrs. Bosley and Tenant that they might remain perfectly easy as to any property placed under your and Mr. J. F. Didier's care. My house here has likewise given you proofs of their confidence by being the intermediate agents of consigning to you for the last two or three years very valuable invoices; and I hope therefore you will ever evince your high sense thereof, by not ceasing your exertions, until you send to us here the accounts and papers required to close Messrs. Bosley and Tenant's concern.

On my part, I depend on your friendship for me, that you will promote that end without delay, as it is very natural for those gentlemen who have placed so much reliance on us all, to receive a statement and final settlement of accounts, now so long pending.

Believe me, with real truth and regard, d'r sir, y'r obed't serv't and friend.

J. N. D'ARCY.

P. S. Let me hear from you on receipt hereof, and, although I write you in English, you will get your brother to translate it to you, to whom remember me. I find we are wanting

The sales of iron per the Potosi,

The do of 24 bales Island cocoa, marked P I,

10 do Caracas do P C

The do of medicines by the Potosi,

There were the following goods delivered by Mr. Bestiqui to Mr. Ferns, which you are to account for, viz.

P 121, 122, 2 bales 200 ps. French Bretagnes, 6—1200,
162, 163, 2 do 14 ps. flannels, 25, 350.

Please furnish also sales of

42 bales Maracaibo cocoa, marked C, } Belonging to schr. Tampico's 3d
69 " Island do " I, } cargo.

La mitad de dros sobre 91 tros m'd T,
" idem " " tros P,

Premio sobre pesos nuevos recibidos por azogue; premio de Libranza's sobre Mexico recibido de Guanaxuato y tambien por dinero recibido por parte del cargamento del Haytien.

Premio de Libranzas sobre Mexico recibido de Guanaxuato por pagaros cobrados cuento de efectos vendidor por D. Rafael de Urtetique. Premio sobre dinero nuevo recibido por efectos vendidos por vin.

Por abrigos de contence.

Don Domingo Urtetique,
*San Luis.*

San Luis, say Tampico, *December* 18, 1825.

Thomas Tenant and James Bosley, esqrs., *Baltimore.*

Letter from J. N. D'Arcy to T. Tenant and J. Bosley. Tampico, Dec. 18, 1825.

*Dear Sirs:* I reached this last evening from San Luis, and finding the Potosi under sailing orders, I have only by her to state that I have been using my best endeavors, for several weeks past, to wind up the old affairs of the union, which I have found a very difficult job, owing to the death of Mr. J. F. Didier, and the indisposition of his *of his* partner or assitant Don Domingo Urtetique. I have, however, so far succeeded as to obtain several accounts of sales of the remnants of the goods sold at San Luis, Zacatacas, Guanaxuato Guadalajara, &c. &c., together with a list of the debts outstanding in these places, which latter amounts to about $16,000, and I am happy to observe that I dont conceive more than one half, perhaps no more than one third, are bad. It will, however, be sometime before they are collected, as the goods purchased by those who owe are mostly on hand, and, Spaniard like, they are determined to hold on for better prices. Our agent at Durango, a very honest man, has sold nearly all that was on hand there, at poor prices to be sure, but that could not be helped, as the whole he had were the refuse of all the cargoes. This person, whose name is Blandin, and who I believe is intended as the future partner of Mr. Harrison, has taken up the ridiculous notion that, unless the late J. F. Didier's brother Henry or Edmund send him a power, he might be called on by them for the goods or their proceeds, and

in fact has made me so angry with him for retaining the property, that, in the name of Arbel and Co., I have written him, very sharply, to send us down the specie without any more of his palaver, and if he did not comply at once we would make him, and any house he would connect himself with here, responsible not only for principal, but interest, and any damages the delay might occasion. I requested his intended partner here, Mr. Harrison, to write him on the subject. In the meanwhile, there is no fear on the subject, and I have directed Arbel and Co. to remit you on account the concern the sum of $10,000 in specie per the Potosi, the charges of which will appear at your debit in the account current, which, together with all the sales, &c. &c., we hope to have ready in the course of 8 or 10 days to forward you. I beg you will excuse this hasty letter, as I am much fatigued, and have a great deal to do. Referring to the next from Arbel and Co., and to their friendly respects, I am very respectfully,

Gentl., y'r most obed't svt.

J. N. D'ARCY.

TAMPICO, *February* 8, 1826.

THOMAS TENANT and JAMES BOSLEY, Esqs., *Baltimore.*

Letter from D'Arbel & Co. to T. Tenant and J. Bosley, dated Tampico, 8th Feb. 1826.

*Gentlemen:* We now wait on you with the enclosed accts. of your joint concerns, embracing the sales of the schrs. Ned and United States', Tampico's 1st, 2d, and 3d, United States' 2d, and Potosi's 1st cargoes, which have been brought together with much care, and we believe proper exactness. Our acct. current you will also receive enclosed. The whole of those accounts will afford you a general and more particular statement of your business than could be rendered by other explanations.

You are, no doubt, sensible of the unavoidable delay and difficulty in obtaining and properly adjusting the sales and other numerous accounts from the interior belonging to your several cargoes, parts of which have been sent to all the principal towns in this country, as well with a view of closing the sales of remnants of cargoes, as of effecting larger sales.

You will observe by the dates of the acct. sales of the last three cargoes, that they were in part made out some time since, but to avoid the garbled state in which they then appeared, they were detained until we were enabled to furnished them entire, and in such a manner as would occasion you the least difficulty in their examination. It affords us pleasure on the present occasion to remark that the outstandings of your extensive business under our charge are comparatively small, and for the most part good; though the collections are made rather tardily, we are persuaded no other house in the interior has effected sales to the same extent, with a return of smaller outstandings or of less questionable collection. For the liquidation of such debts as bear a probability of collection, we have empowered Mr. J. Drege at San Luis, a young man of prudence and activity, in whom we have every reliance as to his abilities and attention to your interests.

Respectfully, your obed't serv'ts.

D'ARBEL & CO.

P. S. A list of the debts at San Luis is also inclosed.

TAMPICO, *May* 29, 1826.

JAMES BOSLEY, THOMAS TENANT, Esqrs., *Baltimore.*

Letter from D'Arbel & Co. to T. Tenant and J. Bosley, dated Tampico, May 29, 1826.

*Gentlemen:* As we advised you last on the 8th inst. we have shipped on board the schooner Potosi $6,000 in specie, pr. invoice and bill of lading enclosed herewith, amounting, with charges, to $6,368 07, which we have placed to your debit. As soon as we learn the amount of charges on the amount remitted to Mexico, we shall acquaint you with the same.

Since our last we have nothing from the interior respecting outstandings, but bear in mind the necessity of unremitting attention to their collection. To the present period, Mr. Drege has met with but indifferent success in this desirable object.

Respectfully, your obed't serv'ts.,
D'ARBEL & CO.

THOMAS TENANT and JAMES BOSLEY, Esqrs.
*Baltimore.*

And also, for the purpose aforesaid, the defendant relied upon an item in the account current purporting to be the account current of John F. Didier, deceased, with D'Arbel and Co., produced by the plaintiffs; to the admission of which account in evidence the defendant had before objected, but the same had been admitted by the court, which item is as follows:

1825, Decr. 5, drawing of power of attorney in favor of Drege to administer, - - - - - - - - - $9 88

And also read in evidence the arbitration bond admitted to have been signed by the respective parties thereto.

(Herein before inserted in the defendant's 4th exception, page 42 of this record.)

And further, to show the incompleteness and insufficiency of the account marked B, and the unsettled state of the accounts between the parties, as also the agency of Drege in the transactions referred to, the defendant's counsel read in evidence the following entries from a book wholly in the handwriting of the said Drege. (See the following agreement.)

*Circuit Court U. S., 4th Circuit, District of Maryland:*

DOMINGO D'ARBEL, and others,
*v.*
URTETIQUE.

Agreement. It is agreed between the parties in this case, by their counsel, that the book referred to in the exception as being in the hand writing of J. R. Drege, may be sent up to the Supreme Court with said record, instead of being inserted in the same, and there used by either party in said case as if the same was actually copied into the exception.

J. GLENN,
R. JOHNSON, } *for Pltffs.*
J. MEREDITH,
J. P. KENNEDY, } *for Defendt.*
N. WILLIAMS,

*April* 19, 1833.

Thereupon the plaintiffs read in evidence every part of said letters, and the account current of sales, and list of outstanding debts referred to in D'Arbel and Co.'s letter to Tenant and Bosley, of the 8th February, 1826, and which were enclosed in said letter. The plaintiffs also read the following entries from the aforesaid book.

(See agreement on page 74 of this record.)

The plaintiffs' counsel, in their opening, stated to the jury that the amount claimed from the defendant in this cause, as the balance now due, is $6,680 47, with interest from the 30th day of April, 1826, and that the same was the balance remaining due of the balance in the account B referred to in Drege's deposition, and that said last balance had been reduced by remittances and payments made from time to time by the house of J. F. Didier to the plaintiffs on account of said debt, of which remittances and payments the plaintiffs offered no evidence, except as before stated. And the evidence on both sides as set forth in the prior exceptions is to be taken and considered as forming a part of this exception. And the plaintiffs, further to support the issue on their part, offered in evidence the following papers admitted to be signed, as they purport to be, by Bosley and Tenant respectively, who are the same persons before mentioned in the evidence in this case, and the same were offered to show that the entire interest, at the institution of this suit, in the amount in controversy in this case was in the plaintiffs.

James Bosley's receipt for $12,000.

Messrs. Thomas Tenant, Josiah Littler, and the undersigned, having shipped in company with D'Arbel & Co. to Mexico, various quantities of goods and merchandise, in the whole of which the subscribers had an interest of three-eighths of the whole, and which shipments have all, or some of them; produced a profit; and whereas the said D'Arbel and Co. have remitted on said account divers large sums of money; and whereas some differences in the adjustment of our accounts with D'Arbel and Co. have arisen, and I have agreed to accept of D'Arbel and Co. the sum of twelve thousand dollars in Messrs D'Arcy and Didier's bills of exchange on Messrs. D'Arbel and Co, at two and sixty days' sight, which, when paid, and damages on the bills (if any) will be in full, which is passed as an entire acquittal of all claims that the parties may now or hereafter have on each other respecting the union business, in full satisfaction and discharge of all my claims and demands against them on said concern, or either of them, which I have, or may have, on account of my shipments to them, with Mr. Thomas Tenant and Isaiah Littler. Now, in consideration of the said sum of twelve thousand dollars, paid as above, the receipt whereof I hereby acknowledge, I, James Bosley, do release, exonerate and discharge Domingo. Arbel, John N. D'Arcy and Henry Didier, trading under the firm of D'Arbel and Co., of and from all debts, dues, and demands, which I have against them, or either of them, for, or on account of, any shipments which I have made to them, on consignment, in company with the said Thomas Tenant, or in company with Thomas Tenant and D'Arbel and Co., or in company with Thomas Tenant, D'Arbel & Co and Isaiah Littler; and I do hereby release, assign, and convey to said D'Arbel and Co., all my share or proportion of outstanding debts, due or owing, for or on account of said shipments, or either of them; as also all goods and merchandise which

now remains unsold in Mexico on union account. In witness whereof, I hereunto set my hand and seal, this eleventh day of December, 1826.

JAMES BOSLEY. [SEAL.]

Signed, sealed, and delivered in presence of

LUTHER LITTIG.

James Bosley's receipt for $8,000.

The undersigned having shipped on his individual account, in company with D'Arbel and Co., various quantities of goods and merchandise; whereas the said D'Arbel and Co. have remitted divers large sums of money, and whereas some differences in the adjustment of our accounts with D'Arbel and Co. have arisen, and I have agreed to accept of said D'Arbel and Co. the sum of eight thousand dollars, viz.

| | | |
|---|---|---|
| In Messrs. D'Arcy and Didier's bills of exchange on Messrs. D'Arbel and Co., at two and sixty days' sight, for - - - - | | $2,404 19 |
| And my note dated 18th February, 1822, at five years, payable to Robert and John Oliver, and by them endorsed, for $4,950 | | |
| Interest 1 year and 4 days on same - - | 300 30 | |
| | 5,250 30 | |
| Export duty 3½ pr. ct. as p. pro forma invoice | 183 76 | |
| Freight and insurance 3 pr. ct. do do - | 157 50 | |
| Bags, &c. - - - - - - | 4 25 | |
| | | 5,595 81 |
| | | $8,000 00 |

Which, when paid, and damages on the bills (if any) will be in full, which is passed on an entire acquittal of all claims that the parties may now or hereafter have on each other respecting the aforesaid business, in full satisfaction and discharge of all my claims and demands against them on said concern, or either of them, which I have, or may have, on account of my shipments to them on said account. Now, in consideration of the said sum of eight thousand dollars paid as above, the receipt whereof I hereby acknowledge, I, James Bosley, do release, exonerate, and discharge Domingo D'Arbel, John N. D'Arcy, and Henry Didier, trading under the firm of D'Arbel and Co., of and from all debts, dues, and demands, which I have against them, or either of them, for or on account of any shipments which I have made to them on consignment, in company with D'Arbel and Co., and on my individual account, and I do hereby release, assign, and convey, to said D'Arbel and Co. all my share of proportion of outstanding debts due or owing for or on account of said shipment, or either of them.

In witness whereof, I hereunto set my hand and seal, this eleventh day of December, 1826.

JAMES BOSLEY. [SEAL.]

Signed, sealed, and delivered, in presence of

LUTHER LITTIG.

BALTIMORE, *November* 7, 1827.

Thos. Tenant's receipt for $15,707 50.

I acknowledge to have this day received from D'Arbel and Co. the three following described promissory notes, drawn by Edmund Didier, and endorsed by D'Arcy and Didier, dated

this day; that is to say: a note payable four months after date for $5,102 50, five thousand one hundred and two dollars and fifty cents. One payable eight months after date for $5,202 50, five thousand two hundred and two dollars and fifty cents. And the third payable twelve months after date for $5,302 50, five thousand three hundred and two dollars and fifty cents. In consideration whereof, I do hereby sell, assign, transfer and convey unto the said Domingo Arbel, John N. D'Arcy, and Henry Didier, trading under the firm of D'Arbel and Co., all my remaining interest in certain shipments heretofore made to Mexico to their consignment in conjunction with James Bosley, under an agreement between the said D'Arbel and Company, James Bosley, and myself, together with all my share or proportion of outstanding debts due or owing, for or on account of said shipments, or either of them, as also all goods and merchandise, being parts of said shipments, now remaining unsold; and I do hereby release, exonerate and discharge the said Domingo Arbel, John N. D'Arcy, and Henry Didier, of and from all claims and demands which I have against them, or either of them, for or on account of my said interest, it being understood and agreed by and between the said D'Arbel and Company, and myself, testified by their signature to a duplicate hereof remaining in my possession, that the said D'Arbel and Company shall and will guaranty, indemnify, and save me harmless from all claims and demands which may hereafter be made upon me by any person, persons, or Government whatsoever, for or by reason of said shipments or any of them. In witness whereof, I have hereunto set my hand and seal, the day and year first above written.

(S'd.) THOS. TENANT. [SEAL.]

Witness: RICH'D G. COX.

Whereupon the defendant, by his counsel, prayed the court's opinion as follows:

Defendant's prayers.

1st. That the plaintiffs are not entitled to support this action upon the evidence given herein, for want of proper plaintiffs so far as regards the consignments made to them by Tenant and Bosley—the plaintiffs and Tenant and Bosley having been jointly interested therein at the periods when such consignments were made.

2d. That if the jury find from the evidence that the affairs of the house of John F. Didier immediately after his death passed into the hands of the plaintiffs, or their agent, who took upon himself the collection of the outstanding debts thereof, and the settlement of the concerns of said house, that then the defendant is only responsible for such balance (if any) as the jury may find was due to the plaintiffs from said house at the period when the plaintiffs so took possession of said affairs.

3d. That if the jury find from the evidence that the affairs of the house of John F. Didier, immediately after his death, passed into the hands of the plaintiffs, or their agent, who took upon themselves the collection of the outstanding debts thereof, and the settlement of the concerns of said house, that then the defendant is only responsible for such balance (if any) which shall be ascertained by the jury to be due from the defendant to the plaintiffs on a final settlement of the concerns of said house, and that there is no evidence in this cause of such final settlement of the said concerns.

4th. That the plaintiffs are not entitled to recover in this case, because the whole evidence and admissions are so vague and uncertain that they do

not furnish to the jury the means or elements for ascertaining whether any balance is actually due from the defendant to the plaintiffs, or, if any balance is due, what is the true amount of such balance.

5. That upon the whole evidence set out and made a part of this exception, the plaintiffs are not entitled to recover, because the said evidence is not the best of which the nature of the case is capable.

Which said prayers and each of them the court refuse to give, but rejected the same; to which said refusal and rejection, the defendant, by his counsel, prayed leave to except, and that the court here would sign and seal this his bill of exceptions; which is accordingly done, this twentieth day of April, 1833.

G. DUVALL. [SEAL.]
ELIAS GLENN. [SEAL.]

Afterwards, to wit, on the twentieth day of April, in the year of our Lord one thousand eight hundred and thirty-three, the aforesaid Domingo Urtetique, by his attorneys aforesaid, produced to the said circuit court here the writ of the United States of America for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in August next, which said writ of error is in the words, and of the tenor following, to wit:

UNITED STATES OF AMERICA, ss.—*The President of the United States to the Judges of the Circuit Court of the United States for the district of Maryland, greeting:*

[SEAL.] Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between John N. D'Arcy, Henry Didier, and Domingo D'Arbel, plaintiffs, and Domingo Urtetique defendant, a manifest error hath happened to the great damage of the said Domingo Urtetique, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of August next, in the said Supreme Court, to be then and there held. That the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness, the honorable John Marshall, Chief Justice of our Supreme Court, the second Monday in January, in the year of our Lord one thousand eight hundred and thirty-three.

PHILIP MOORE, *Clk. Circt. Ct.*

In pursuance whereof, and according to the form and effect of the act of the Congress of the United States in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as afore-

said rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said Supreme Court of the United States accordingly.

*The United States of America to John N. D'Arcy, Henry Didier, and Domingo D'Arbel, greeting:*

You are hereby cited and admonished to appear at a Supreme Court of the United States to be held at the city of Washington on the first Monday in August next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein John N. D'Arcy, Henry Didier, and Domingo D'Arbel, are plaintiffs, and Domingo Urtetique is defendant, to show cause, if any there be, why the judgment rendered against the said Domingo Urtetique, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf. Witness, my hand and seal, this twentieth day of April, in the year of our Lord one thousand eight hundred and thirty three.

G. DUVALL. [SEAL.]

Service of this citation acknowledged.

J. GLENN, *Att. for Pltffs.*

In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name, and affix the seal of the said circuit court, this twenty-ninth day of June, in the year of our Lord one thousand eight hundred and thirty-three. [SEAL.]

PHILIP MOORE, *Clk. Cir. Ct.*